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RUEHGV/USMISSION GENEVA PRIORITY 1112
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TAGS: [PHUM](#) [PGOV](#) [PTER](#) [KPKO](#) [NP](#)

SUBJECT: OHCHR LOOKING AT TRANSITIONAL JUSTICE ISSUES IN NEPAL

REF: KATHMANDU 1063

Classified By: Ambassador James F. Moriarty. Reasons 1.4 (b,d).

Summary

¶1. (C) On April 27, Ian Martin, Representative of the United Nations Office of the High Commissioner for Human Rights (OHCHR), told representatives of OHCHR donor Embassies that, following the King's April 24 announcement to hand power back to the Parties and the Maoists' April 27 announcement of a three month unilateral cease-fire (reftel), his office was looking at issues of transitional justice. He suggested that the Parties should acknowledge the people's desire to see government accountability for past actions, but should not rush to promise any specific action or process at this time. Martin commented, "in my own view, the new government should channel the people's demand for justice by first investigating demonstration-related killings." Second, the government should "move rapidly" to resolve past disappearances by the state. Third, as part of a larger discussion, the new government should then move toward "a more general comprehensive truth commission, addressing both state and Maoist human rights violations." Martin noted that the UN could play a role in monitoring a cease-fire if asked, and noted that the Maoists had recently released a commitment in principle supporting human rights. End Summary.

UN Role in Cease-fire Monitoring

¶2. (C) On April 27, Ian Martin, OHCHR's Representative in Nepal, told representatives of donor Embassies that the UN could become involved in cease-fire monitoring only if the new government requested assistance from the UN in New York. He said that the UN had great experience in the area and could add credibility and infrastructure to the monitoring process. He commented that the UN would have to discuss internally how best to respond, but Martin hoped that OHCHR could play a role due to OHCHR's established presence on the

ground. Martin explained that national institutions, such as the NHRC, would also need to play a role in monitoring a cease-fire. Martin hoped that the reinstated Parliament would appoint new Commissioners to resolve the local human rights community's mistrust of the current NHRC Commissioners.

First: Investigate Pro-Democracy Related Killings

¶3. (C) Martin said that the people of Nepal had expressed a strong desire for government accountability. Martin stated that OHCHR was prepared to work closely with the new government, noting the Parties had promised to establish a commission to investigate atrocities in the suppression of the people's movement, and to provide compensation to "martyrs." OHCHR confirmed twelve demonstration-related killings between April 8 and 21, and two additional deaths related to the protests. OHCHR was still investigating allegations of one additional killing at Kalanki, Kathmandu on April 20. While OHCHR attributed three killings to the Royal Nepalese Army, and three to the police, it could not yet identify which security force killed the remaining six victims.

Second: Resolve Disappearances

¶4. (C) Commenting that there were few recent allegations of disappearances, Martin said OHCHR had urged the new government to move ahead rapidly to resolve all old disappearance cases, especially those from 2003 and 2004. On May 2, OHCHR planned a meeting with the National Human Rights Commission (NHRC), human rights NGOs, and families of the

disappeared to discuss next steps on disappearances. Martin noted that the United Nations Working Group on Enforced or Involuntary Disappearances (WGEID) had met with a representative of the Government of Nepal in Geneva on April 26 to discuss follow-up on recommendations from a 2004 visit.

The WGEID was considering visiting Nepal later this year.

Third: Transitional Justice

¶5. (C) Martin suggested that the Parties should acknowledge the people's desire to see government accountability for past actions, but should not rush to promise any specific action or process at this time. He noted that OHCHR planned a seminar for politicians, civil society, and human rights activists on May 11 to introduce transitional justice concepts. Martin believed that only after addressing the recent demonstration-related killings and past disappearance cases, would the government be ready to have a larger discussion on transitional justice issues. He added that when the government moved toward a more general comprehensive truth commission, it would need to address both state and Maoist human rights violations.

OHCHR Urges Maoists To Respect Human Rights

¶6. (C) Martin said that as part of OHCHR's ongoing dialogue with the Maoists, it had urged the Maoists to state publicly a commitment to human rights. Martin explained that the NHRC had been working with the Maoists and the government during the 2003 cease-fire to attain a similar confidence-building measure. On April 16, in the midst of Party protests in the capital, the Maoists had released a "Commitment to Human Rights and Humanitarian Principle." Martin commented that OHCHR had not seen the document before it was released and noted that it was a unilateral statement. However, though OHCHR took issue with a few "minor" parts, Martin stated that "on the whole, this was more positive than not." Martin said that OHCHR had not publicly reacted when the statement was first released, but planned to do so now that the political situation had stabilized enough to allow OHCHR to focus on other areas.

Maoist Statement on Human Rights

¶ 7. (U) Martin distributed the Maoist's just released April 16 "Commitment to Human Rights and Humanitarian Principle," in which the CPN-Maoist reiterated its "fundamental respect and commitment" to international humanitarian law and international human rights "enshrined" in the Universal Declaration of Human Rights and in the Geneva Conventions and their additional protocols. The Maoists said they believed in freedom of speech, assembly, and religion. While they stated they would not confiscate property, or detain or arrest people, except as provided for by law, the Maoists did not explain what "law" meant to them. The Maoists promised to treat those in detention according to the law, giving them access to medical treatment. "Any type of torture shall be prohibited." Maoists stated that "no one younger than 18 shall be recruited" for their army. The Maoists also welcomed the presence of OHCHR, and promised safe passage to all OHCHR workers, though the Maoists warned OHCHR officials to "keep their ID cards securely on their person and show them if necessary."

Comment

¶ 8. (C) With a presence already throughout Nepal, OHCHR is a logical choice to participate in any international monitoring effort, although it will need additional resources. The issue of transitional justice will become more important as

the Maoists begin to enter the mainstream. While it is encouraging that OHCHR recognizes the long-term importance of involving Maoists in the process, OHCHR needs to continue to press the Maoists to uphold human rights in action and not only in words.

MORIARTY